THE HONOURABLE SRI JUSTICE V. ESWARAIAH

WRIT PETITION No.2685 OF 2006

Dated: 14-02-2006

Between

M. Ilias Khan, S/o. Mahboob Ali Khan,

Occ: Business, R/o. 6/154 (8), Raja Khan

Bagh, Cuddapah, Andhra Pradesh.

...PETITIONER

AND

Cuddapah Muncipality, rep. by its

Commissioner, Cuddapah District,

Andhra Pradesh and others.

...RESPONDENTS

ORDER:

This writ petition is filed seeking a Writ of Mandamus to declare the action of the respondent No.1 in asking the petitioner to surrender his properties and hand over the original documents bearing Municipal Door No.11/265, Chimmamiyapeta, Cuddapah and threatening to demolish the same without adherence to the due process of law as illegal and arbitrary.

Learned counsel for the petitioner submits that the Cuddapah municipality has been recently upgraded as Municipal Corporation.

In view of the traffic congestion and to have free flow of traffic the Cuddapah Municipal Corporation has decided to widen the roads,

for which they have identified 26 roads in the entire Cuddapah municipal corporation. Learned counsel for the petitioner further submits that the petitioner is not at all against the road-widening programme of the respondents and he has no objection for the said programme if his premises are acquired and if proper compensation is paid.

The only grievance of the petitioner is that the respondents without issuing any notices, without paying any compensation for his structures or the lands and without following due process of law, are threatening the to demolish the existing structures for the purpose of road-widening.

The learned counsel for the petitioner further submits that the action of respondents without following the due procedure prescribed under law and without paying any compensation either by way of private negotiations or by way of initiating proceedings under the Land Acquisition Act is utter violation of the principles of natural justice as well as Sections 146 or 147 of the Municipal Corporation Act, 1955 (for short 'the Act').

This Court disposed of number of writ petitions directing the respondents not to demolish the houses of the private citizens without following due process of law.

Having regard to the facts and circumstances of the case,
the writ petition is disposed of directing the respondents not to demolish the structures or take away any portion of the properties of the petitioner and not to dispossess him without following due process of law under Sections 146 or 147 of the Act or by private negotiations or by initiating the proceedings under the Land Acquisition Act, 1894.

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V. ESWARAIAH, J

February 14, 2006

DSK